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Supreme Court, U.S.
FILED

No. 071417 DEC 21 2007

OFFICE OF THE CLERK

In the

Supreme Court of the United States

In Re:

Rev. Mary Jane Stevens

On Petition for Writ of Certiorari

To the Supreme Court of the United States

Petition for Writ of Certiorari

Rev. Mary Jane Stevens

1006 Seagrove Street

Saint Marys, Georgia 31558

(912) 882-3586

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

Question Presented

In a case where the Deputy Clerk of Court communicates in writing with the petitioner for the second time that the case has not been filed. Where the Deputy Clerk of Court in the same communication gives you instructions for proper filing and states that the papers are being returned to you.

1. Whether it is a violation of the US Constitution's protections of notice and opportunity to be heard, for the 11th Circuit Court of Appeals to dismiss the Petitioners case before the Deputy Clerk returns the papers for resubmission.
2. Whether the court can keep the petitioner's $450.00 filing fee in a situation where the Deputy Clerk says the papers were not filed, and where the petitioner reasonably relied upon the Deputy clerk of Court's written

communication and waited for the return of her papers in compliance with Court rules.

Parties to Proceedings

The Parties to the proceedings are:

Rev. Mary Jane Stevens Petitioner

v.

Hon. Judge Anthony A. Aliamo Respondent

Judge Southern District of Georgia

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Authorities

14th Amendment US Constitution

Mullane v. Central Hanover Trust Co., 339 U.S. 306 (1950)

Concise Statement of Facts

The petitioner mistakenly filed her request for mandamus under the same cover as her appeal. The same was returned with instructions and a request for $450.00 filing fee. The petitioner mailed the requested amount along with the petition for Mandamus. For a second time the deputy clerk in written communication instructed that she was returning the Petition. As petitioner waited for the second return of her Petition for Mandamus, the 11th Circuit Court of Appeals dismissed the Petition for Mandamus. Petition then filed for Reconsideration which was denied by order dated and entered on September 24, 2007. Your petition's $450.00 filing fee was taken where no notice or opportunity to be heard was afforded to the Petitioner.

Therefore Petitioner files for Certiorari to the Supreme Court of the United States, based on violations of petitioner's 14th amendment rights to due process, notice, and opportunity to be heard.

Jurisdiction

Formal Case from Federal Courts the date on which the 11th Circuit Court of Appeals denied my case was dated August 9, 2007. (Appendix)

A timely petition for rehearing was denied by the 11th Circuit Court of Appeals on the following date: September 24, 2007, (Appendix).

Argument

Petitioner was not given notice and opportunity to be heard, where she received written communication from the Deputy Clerk a second time that she was returning the Petition for Mandamus for non compliance.

The 14th Amendment guarantees all Americans the right to due process. The US Supreme Court has interpreted this due process guarantee to mean that where there are property rights to be lost, the notice must be calculated to actual apprise one of the hearing or action. Mullane v Hanover Trust. Co., 339 US 306 (1950)

Here the Notice petitioner received stated that the Petition was being returned. The $450.00 filing fee

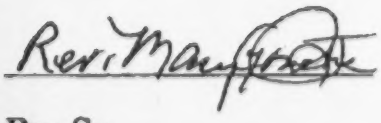
was, however, kept while the Petitioner waited to receive said petition which the Deputy Clerk wrote was to be returned, the court dismissed the petition. There was no opportunity to be heard.

The notice failed to apprise the petitioner that the court could act on the case without the petition being filed. There is absolutely no opportunity to be heard when the court makes a ruling before the petition has been filed in compliance with court rules.

Conclusion

The petition for a Writ of Certiorari should be granted.

Respectfully Submitted,



Pro Se

Dated December 21, 2007

Appendix

A) Order of Dismissal dated August 9, 2007

B) Order denying Motion for Reconsideration dated September 24, 2007.

C) Order, Southern District of Georgia, 07-CV-AAA-2

In the United States Court of Appeals

For the Eleventh Circuit

No. 07-13275-A

Dist. Ct. Docket No. 07-00024-CV-AAA-2

In Re:

Rev. Mary Jane Stevens,

Petitioner

On Petition for Writ of Mandamus to the

United States District Court for the

Southern District of Georgia

Filed: August 9, 2007

BEFORE: BLACK and CARNES, Circuit Judges

BY THE COURT:

Rev. Mary Jane Stevens, proceeding pro se, has filed a mandamus petition, requesting that the Court direct the district court to withdraw its order remanding her underlying real property case back to a Georgia Supreme Court. Stevens argues that her underlying case should be tried in a federal court.

Mandamus relief is available "only in drastic situations when no other adequate means are available to remedy a clear usurpation of power or abuse of discretion." Jackson v. Motel 6 Multipurpose, Inc. 130 F.3d 999, 1004 (11th Cir. 1997). The petitioner has the burden of showing that the claimed right to

issuance of the writ is clear and indisputable. In Re Lopez-Lukis. 113 F3d.1187, 1188 (11th Cir.)1997.

In the instant case, mandamus relief is not available because Stevens doesn't have a clear and indisputable right to relief. Specifically, Stevens has no right to force the district court to exercise subject matter jurisdiction over her real property action. Because Stevens has not shown that she has a clear and indisputable right to the issuance of the writ, mandamus relief is unavailable. Accordingly, Stevens's mandamus petition is **DENIED**.

In the United States Court of Appeals

For the Eleventh Circuit

No. 07-13275-A

Dist. Ct. Docket No. 07-00024-CV-AAA-2

In Re:

Rev. Mary Jane Stevens,

Petitioner

On Petition for Writ of Mandamus to the

United States District Court for the

Southern District of Georgia

FILED : September 24, 2007

BEFORE: BLACK and CARNES, Circuit Judges

BY THE COURT:

Rev. Mary Jane Stevens, proceeding pro se, petitions this court for reconsideration of our August 9, 2007, order denying her petition for a writ of mandamus. This Court held that she had no right to force the district court to exercise subject-matter jurisdiction over her real property action. A party seeking rehearing or reconsideration must specifically allege any point of law or fact that this Court overlooked or misapprehended. See Fed. R. App.P. 40. Stevens' argument that this Court denied her mandamus petition before receiving her renewed her petition is not supported by the record.

Accordingly, she has not established that this Court overlooked or misapprehended any point of law or fact, and her motion for reconsideration is **DENIED**. Her motion to have opposing counsel in the underlying action served with her mandamus petition is **DISMISSED** as moot.

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF GEORGIA

BRUNSWICK DIVISION

ANDREW MYERS EXTATE	CV 207-24
v.	Appeal No.
REV. MARY JANE STEVENS	07-12405-AA

ORDER

This appeal is DISMISSED, sua sponte, for lack of jurisdiction. The district court's April 25, 2007, order remanding the action to state court is not reviewable.

IT IS HEREBY ORDERED that the order of the United States Court of Appeals for the Eleventh Circuit is made the Order of this Court.

So Ordered, this 23 day of August, 2007

Anthony A. Alaimo,
Judge, United States District Court
Southern District of Georgia